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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,982	01/26/2006	Melchor Daumal Castellon	001058-00031	9466
27557 7590 03/15/2011 BLANK ROME LLP WATERGATE 600 NEW HAMPSHIRE AVENUE, N.W. WASHINGTON, DC 20037				
EXAMINER				
DIAZ, THOMAS C				
ART UNIT		PAPER NUMBER		
3656				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,982

Applicant(s)

DAUMAL CASTELLON, MELCHOR

Examiner

THOMAS DIAZ

Art Unit

3656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5, 9 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 9, 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2010 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The amendment filed 12/27/2010 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Figure 7 along with disclosure for figure 7 within the specification is considered new matter since the figure contains specific dimensioning and positioning of the deformations which were not originally disclosed in the disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the recesses". There is insufficient antecedent basis for this limitation in the claim.

It is unclear whether the term "the recesses" is referring to a completely different set of recesses, since the only recess set forth previously was the "at least one recess" and not necessarily a plurality of recesses.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 2, 5, 9, 12 are rejected under 35 U.S.C. 102(e) as anticipated by
Reiche et al. (USP 7174803).**

Regarding claim 1, Reiche et al. discloses an intermediate shaft assembly comprising a female member (fig.5, 3) slidably receiving a male member therein, said female and male members (fig.5, 2) having a substantially triangular shape with blunt vertexes (see fig.6, both members have a substantially triangular shape with blunt vertexes), a plurality of metal strips (fig.5, metal strips 9 and col.2, lines 25-30 which discuss the use of a plurality of metal strips in **each** of the chambers located around the cage) that are separate from the male member fitted therebetween, each of the metal strips having an uneven contact surface (the strips are uneven or not flat, furthermore any contact surface can be read as uneven since all contact surfaces have surface

roughness and thus are uneven), characterized in that each of said metal strips is fitted between the male member and the female member and inside at least one recess (see figures 5 and 6, the strips are fitted between the members and in a recess 8) in a continuous fastening cage (fig.6, 7) clamped to the external surface of said male member (the cage is clamped between the male and female members), the recesses being arranged on the fastening cage to correspond to the sides of the triangular shape of the female and male members (see figure 1 or figure 6).

Regarding claim 2, Reiche et al. discloses said cage is clamped to the outside of the male member by deformations (the male members lateral surfaces are deformed or curved inwardly which aid in providing the clamping force for the fastening cage) on the lateral surface thereof.

Regarding claim 5, Reiche et al. discloses an intermediate shaft assembly comprising a female member (fig.5, 3) slidably receiving a male member therein, said female and male members (fig.5, 2) having a substantially triangular shape with blunt vertexes (see fig.6, both members have a substantially triangular shape with blunt vertexes); a plurality of metal strip (fig.5, metal strips 9 and col.2, lines 25-30 which discuss the use of a plurality of metal strips in **each** of the chambers located around the cage) that are separate from the male member, each of the metal strips having an uneven contact surface (the strips are uneven or not flat, furthermore any contact surface can be read as uneven since all contact surfaces have surface roughness and thus are uneven); and a continuous fastening cage (fig.6, 7) fitted between the male member and the female member, said fastening cage having a plurality of recesses

(see figure 1 and 6), said recesses being arranged on the fastening cage to correspond to sides of the triangular shape of the female and male members (see figures 5 and 6, the strips are fitted between the members and in a plurality recess 8), said fastening cage surrounding said male member (see fig.6), and each of the metal strips being received in one of the plurality of recesses (this limitation does not imply that the strips are individually put into separate recesses but merely that they are at least within one of the recesses).

Regarding claims 9 and 12, Reiche et al. discloses said male member has blunt surfaces (surfaces as seen in fig.6).

Response to Arguments

Applicant's arguments filed 12/27/2010 have been fully considered but they are not persuasive.

Reiche indeed discloses the newly added claimed subject matter given its broadest and most reasonable interpretation (see rejection above). The claims generally recite the need for a plurality of recesses located on the fastening cage to correspond to the sides of the triangular shape which is clearly already disclosed in Reiche. Furthermore, Reiche discloses a plurality of springs which can be put into each of the recesses or chambers (col.2, lines 25-30). However, the claim does not recite that the metal strips need to be distributed about each of the sides of the triangle as alleged by the applicant. Claim 1 recites "each of said metal strips is fitted between the male member and the female member and inside at least one recess in a continuous

fastening cage" and claim 5 recites "each of the metal strips being received in one of the plurality of recesses". Neither of these limitations give any specific indication that the metal strips are distributed on each of the sides of the triangular shape because the limitations do not precisely define which recess each strip is being put into. For example, there could be multiple metal strips in a single recess or multiple recesses along one side with a strip in each one.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS DIAZ whose telephone number is (571)270-5461. The examiner can normally be reached on Monday-Friday 7:30am to 4:00pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571)272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas Diaz/
Examiner, Art Unit 3656

/Richard WL Ridley/
Supervisory Patent Examiner, Art Unit 3656